

**U.S. District Court
District of Rhode Island (Providence)
CIVIL DOCKET FOR CASE #: 1:20-cv-00152-MSM-PAS**

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Phoenix v. Day One et al
Assigned to: District Judge Mary S. McElroy
Referred to: Magistrate Judge Patricia A. Sullivan
Cause: 42:1983 Civil Rights Act

Date Filed: 03/28/2020
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Simone E Phoenix

represented by **Shannah M. Kurland**
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401-439-0518
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ATTORNEY TO BE NOTICED

V.

Defendant

Day One

represented by **Rajaram Suryanarayan**
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Defendant

The Providence Center, Inc.
TERMINATED: 06/11/2020

represented by **Paul F. Galamaga**
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Defendant

Timothy McGann

*individually and in official capacity as a
Providence Police Officer*

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Defendant

Philip Hartnett

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Defendant

Edmond Esten

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Providence Police Officer*

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Defendant

Brian Dyer

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Defendant

Dwight Eddy

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Providence Police Officer*

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Defendant

Sean Comella

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Providence Police Officer*

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Defendant

James Cryan

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Providence Police Officer*

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ATTORNEY TO BE NOTICED

Defendant

Jeff Richards

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Providence Police Officer*

represented by **Michael J. Colucci**
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ATTORNEY TO BE NOTICED

Defendant

City of Providence

*by and through its Treasurer, James J.
Lombardi, III*

represented by **Kevin F. McHugh**
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Defendant

Deb Wingate-Silva

represented by **Rajaram Suryanarayan**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Carla Cuellar

represented by **Paul S. Callaghan**
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Defendant

Family Services Rhode Island, Inc.

represented by **Paul S. Callaghan**
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LEAD ATTORNEY
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Kurt A. Rocha

(See above for address)

*ATTORNEY TO BE NOTICED***Tyler J. Pare**

(See above for address)

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/28/2020	<u>1</u> R	COMPLAINT (filing fee paid \$ 400.00, receipt number 0103-1487199), filed by Simone E Phoenix. (Attachments: # <u>1</u> R summons, # <u>2</u> R summons)(Kurland, Shannah) CLERK'S NOTE : Docket entry was edited to modify the file date. Modified due to Technical Issues on 3/30/2020 (Farrell Pletcher, Paula). (Entered: 03/30/2020)
03/30/2020		CORRECTIVE DOCKET ENTRY Regarding: <u>1</u> R Complaint. This case has been electronically filed and processed, however, after a quality control review the following deficiencies were found: Civil Cover Sheet not attached. The filer is directed to file a Civil Cover Sheet within one day. (Farrell Pletcher, Paula) (Entered: 03/30/2020)
03/30/2020		Case assigned to District Judge William E. Smith and Magistrate Judge Patricia A. Sullivan. (Farrell Pletcher, Paula) (Entered: 03/30/2020)
03/30/2020	<u>2</u>	Summons Issued as to Day One and The Providence Center, Inc. (Attachments: # <u>1</u> Providence Center Summons)(Farrell Pletcher, Paula) (Entered: 03/30/2020)
03/30/2020	<u>3</u>	CASE OPENING NOTICE ISSUED (Farrell Pletcher, Paula) (Entered: 03/30/2020)
03/30/2020	<u>4</u>	Civil Cover Sheet filed by All Plaintiffs. Regarding New Case: <u>1</u> R Complaint,. (Potter, Carrie) (Entered: 03/30/2020)
04/23/2020	<u>5</u>	NOTICE of Appearance by Michael J. Colucci on behalf of Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards (Colucci, Michael) (Entered: 04/23/2020)
04/23/2020	<u>6</u>	ANSWER to Complaint by Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards.(Colucci, Michael) (Entered: 04/23/2020)
05/13/2020	<u>7</u>	NOTICE of Appearance by Paul F. Galamaga on behalf of The Providence Center, Inc. (Galamaga, Paul) (Entered: 05/13/2020)
05/13/2020	<u>8</u>	DEMAND for Trial by Jury by The Providence Center, Inc.. (Galamaga, Paul) (Entered: 05/13/2020)
05/13/2020	<u>9</u>	ANSWER to Complaint by The Providence Center, Inc..(Galamaga, Paul) (Entered: 05/13/2020)
05/13/2020		TEXT ORDER: Pursuant to Rule 26 of the Federal Rules of Civil Procedure, the parties are directed to begin their mandatory disclosures immediately, before the Rule 16 conference. To the extent that the parties wish to begin discovery on a cooperative basis prior to the initial conference, they are encouraged to do so. So Ordered by District Judge William E. Smith on 5/13/2020. (Jackson, Ryan) (Entered: 05/13/2020)
05/15/2020	<u>10</u>	NOTICE of Appearance by Paul F. Galamaga on behalf of The Providence Center, Inc. (Galamaga, Paul) (Entered: 05/15/2020)

05/19/2020	11	NOTICE of Appearance by Rajaram Suryanarayan on behalf of Day One (Suryanarayan, Rajaram) (Entered: 05/19/2020)
05/21/2020	12	ANSWER to Complaint by Day One.(Suryanarayan, Rajaram) (Entered: 05/21/2020)
05/26/2020	13	MOTION to Amend/Correct 1 R Complaint, filed by Simone E Phoenix. Responses due by 6/9/2020. (Attachments: # 1 Supporting Memorandum, # 2 Appendix Proposed Amended Complaint)(Kurland, Shannah) (Entered: 05/26/2020)
05/29/2020	14	NOTICE of Appearance by Kevin F. McHugh on behalf of City of Providence (McHugh, Kevin) (Entered: 05/29/2020)
05/29/2020	15	ANSWER to Complaint by City of Providence.(McHugh, Kevin) (Entered: 05/29/2020)
05/29/2020	16	MOTION to Amend/Correct 13 MOTION to Amend/Correct 1 R Complaint, filed by Simone E Phoenix. Responses due by 6/12/2020. (Attachments: # 1 Appendix CORRECTED Motion, # 2 Supporting Memorandum CORRECTED Memorandum, # 3 Appendix CORRECTED 1st Am Complaint)(Kurland, Shannah) (Entered: 05/29/2020)
06/08/2020	17	STIPULATION <i>Stipulation of Voluntary Dismissal</i> filed by The Providence Center, Inc.. (Galamaga, Paul) (Entered: 06/08/2020)
06/11/2020		TEXT ORDER Entering 17 Stipulation of Voluntary Dismissal of Defendant The Providence Center, Inc.. So Ordered by District Judge William E. Smith on 6/11/2020. (Jackson, Ryan) (Entered: 06/11/2020)
06/15/2020		TEXT ORDER granting 13 Motion to Amend/Correct; granting 16 Motion to Amend/Correct. So Ordered by District Judge William E. Smith on 6/15/2020. (Jackson, Ryan) (Entered: 06/15/2020)
06/15/2020	18	AMENDED COMPLAINT against All Defendants filed by Simone E Phoenix.(Potter, Carrie) (Entered: 06/15/2020)
06/15/2020	19	NOTICE of Appearance by Rajaram Suryanarayan on behalf of Deb Wingate-Silva (Suryanarayan, Rajaram) (Entered: 06/15/2020)
06/15/2020	20	ANSWER to 18 Amended Complaint <i>FIRST AMENDED COMPLAINT</i> by Deb Wingate-Silva.(Suryanarayan, Rajaram) (Entered: 06/15/2020)
06/15/2020	21	NOTICE by Day One <i>AND DEBRA WESTGATE-SILVA'S INITIAL DISCLOSURES</i> (Suryanarayan, Rajaram) (Entered: 06/15/2020)
06/15/2020	22	NOTICE by Day One <i>RULE 7 CORPORATE DISCLOSURE STATEMENT</i> (Suryanarayan, Rajaram) (Entered: 06/15/2020)
06/23/2020	23	ANSWER to 18 Amended Complaint by Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards. (Colucci, Michael) (Entered: 06/23/2020)
06/24/2020	24	Second MOTION to Amend/Correct 18 Amended Complaint filed by Simone E Phoenix. Responses due by 7/8/2020. (Attachments: # 1 Supporting Memorandum, # 2 Appendix Amended complaint, # 3 Exhibit A, # 4 Exhibit B, # 5 Exhibit C, # 6 Exhibit D, # 7 Exhibit E)(Kurland, Shannah) (Entered: 06/24/2020)
06/30/2020	25	RESPONSE In Opposition to 24 Second MOTION to Amend/Correct 18 Amended Complaint filed by City of Providence, Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards. Replies

		due by 7/7/2020. (Attachments: # 1 Supporting Memorandum, # 2 Case Submission) (Colucci, Michael) (Entered: 06/30/2020)
07/21/2020	26 R	<i>Defendants, Day One and Debra Westgate-Silva's</i> ANSWER to Complaint of Plaintiff's <i>Second Amended Complaint</i> by Day One.(Suryanarayan, Rajaram) (Entered: 07/21/2020)
09/17/2020	27	STIPULATION <i>Allowing Defendant, Day One, up to and including October 30, 2020 to file responses to discovery requests filed by the plaintiff</i> filed by Day One. (Suryanarayan, Rajaram) (Entered: 09/17/2020)
10/13/2020		MOTIONS REFERRED: 24 Second MOTION to Amend/Correct 18 Amended Complaint referred for determination to Magistrate Judge Patricia A. Sullivan. (Jackson, Ryan) (Entered: 10/13/2020)
10/15/2020		NOTICE of Hearing on Motion 24 Second MOTION to Amend/Correct 18 Amended Complaint :VIDEO Motion Hearing set for 11/2/2020 at 10:00 AM in Remote Hearing before Magistrate Judge Patricia A. Sullivan. Invitation and instructions to video hearing have been emailed to counsel of record.(Saucier, Martha) (Entered: 10/15/2020)
10/15/2020		AMENDED NOTICE of Hearing on Motion 24 Second MOTION to Amend/Correct 18 Amended Complaint : VIDEO Motion Hearing rescheduled for 11/6/2020 at 10:00 AM in Remote Hearing before Magistrate Judge Patricia A. Sullivan. Invitation and instructions emailed to counsel previously remain the same.(Saucier, Martha) (Entered: 10/15/2020)
11/06/2020		Minute Entry for proceedings held before Magistrate Judge Patricia A. Sullivan: Motion Hearing held on 11/6/2020 re 24 Second MOTION to Amend/Correct 18 Amended Complaint filed by Simone E Phoenix. Shannah Kurland for the plaintiff; Rajaram Suryanarayan, Michael Colucci and Kevin McHugh for the defendants. Both sides argue; Court takes matter under advisement; Court to issue a Report and Recommendation. (Courtroom Video Hearing at 10:02.) (Saucier, Martha) (Entered: 11/06/2020)
12/11/2020	28 R	REPORT AND RECOMMENDATIONS re 24 Second MOTION to Amend/Correct 18 Amended Complaint filed by Simone E Phoenix Objections to R&R due by 12/28/2020. ..Because the SAC's claims against the three officers Deputy Chief Thomas Verdi, and Officers Francisco Colon and Michael Wheeler are out of time and relation back does not apply, I recommend that the motion to amend as to them be denied as futile. Otherwise, based on the absence of objection, the motion to amend to add of Defendants Cuellar and Family Services Rhode Island, Inc. may be granted So Ordered by Magistrate Judge Patricia A. Sullivan on 12/11/2020. (Saucier, Martha) (Entered: 12/11/2020)
01/07/2021	29 R	ORDER adopting 28 R Report and Recommendations and granting in part and denying in part 24 Motion to Amend Complaint. So Ordered by District Judge William E. Smith on 1/7/2021. (Jackson, Ryan) (Entered: 01/07/2021)
01/26/2021	30	AMENDED COMPLAINT , <i>Second</i> against All Defendants, filed by Simone E Phoenix.(Kurland, Shannah) (Entered: 01/26/2021)
01/28/2021	31	ORDER OF RECUSAL entered. District Judge William E. Smith recused. Case reassigned to District Judge Mary S. McElroy for all further proceedings. So Ordered by District Judge William E. Smith on 1/28/2021. (Jackson, Ryan) (Entered: 01/28/2021)
01/28/2021	32	<i>Defendants, Day One and Debra Westgate-Silva's</i> ANSWER to 30 Amended

		Complaint <i>Second</i> by Day One.(Suryanarayan, Rajaram) (Entered: 01/28/2021)
02/02/2021	33	ANSWER to 30 Amended Complaint by Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards. (Colucci, Michael) (Entered: 02/02/2021)
03/04/2021	34	NOTICE of Remote Hearing: Telephonic Rule 16 Conference set for Wednesday, 3/17/2021 at 10:00 AM before District Judge Mary S. McElroy. (Urizandi, Nisshy) (Entered: 03/04/2021)
03/10/2021	35	RULE 16 STATEMENT by Simone E Phoenix. (Kurland, Shannah) (Entered: 03/10/2021)
03/17/2021		Minute Entry for proceedings held before District Judge Mary S. McElroy: Telephonic Rule 16 Conference held on 3/17/2021: S. Kurland for Plaintiff; R. Suryanarayan, M. Colucci, K. McHugh, and K. Rocha for Defendants. (Simoncelli, Michael) (Entered: 03/17/2021)
03/17/2021	36	PRETRIAL SCHEDULING ORDER: Factual Discovery to close by 12/17/2021; Plaintiff Expert Disclosures shall be made by 1/18/2022; Defendant Expert Disclosures shall be made by 2/17/2022; Expert Discovery to close by 3/21/2022; Dispositive Motions due by 4/20/2022. So Ordered by District Judge Mary S. McElroy on 3/17/2021. (Simoncelli, Michael) (Entered: 03/17/2021)
03/19/2021	37	NOTICE of Appearance by Andrew W. Plocica on behalf of Day One (Plocica, Andrew) (Entered: 03/19/2021)
03/31/2021	38	NOTICE of Appearance by Paul S. Callaghan on behalf of Carla Cuellar, Family Services Rhode Island, Inc. (Callaghan, Paul) (Entered: 03/31/2021)
03/31/2021	39	MOTION to Dismiss <i>Plaintiff's Second Amended Complaint</i> filed by Carla Cuellar, Family Services Rhode Island, Inc.. Responses due by 4/14/2021. (Attachments: # 1 Supporting Memorandum)(Callaghan, Paul) (Entered: 03/31/2021)
04/02/2021	40	NOTICE of Appearance by Kurt A. Rocha on behalf of Carla Cuellar, Family Services Rhode Island, Inc. (Rocha, Kurt) (Entered: 04/02/2021)
04/14/2021	41	RESPONSE In Opposition to 39 MOTION to Dismiss <i>Plaintiff's Second Amended Complaint</i> filed by Simone E Phoenix. Replies due by 4/21/2021. (Attachments: # 1 Supporting Memorandum)(Kurland, Shannah) (Entered: 04/14/2021)
04/21/2021	42	REPLY to Response re 41 Response to Motion, filed by Carla Cuellar, Family Services Rhode Island, Inc.. (Callaghan, Paul) (Entered: 04/21/2021)
04/28/2021	43	STIPULATION <i>extending time to respond to discovery</i> filed by City of Providence. (McHugh, Kevin) (Entered: 04/28/2021)
05/03/2021		TEXT ORDER entering 43 Stipulation - So Ordered by District Judge Mary S. McElroy on 5/3/2021. (Urizandi, Nisshy) (Entered: 05/03/2021)
05/27/2021	44	MOTION for Summary Judgment <i>with Supporting Memorandum</i> filed by City of Providence, Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards. Responses due by 6/10/2021. (Attachments: # 1 Exhibit, # 2 Statement of Undisputed Facts, # 3 Case Submission) (Colucci, Michael) (Attachment 1 replaced on 6/2/2021) (Urizandi, Nisshy). (Entered: 05/27/2021)
06/01/2021	45	MOTION to Seal Document Previously Filed With the Court filed by City of Providence, Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten,

		Philip Hartnett, Timothy McGann, Jeff Richards. Responses due by 6/15/2021. (Colucci, Michael) (Entered: 06/01/2021)
06/01/2021	46	NOTICE by City of Providence, Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards <i>to Correct Certification Date Re: Motion for Summary Judgment</i> (Colucci, Michael) (Entered: 06/01/2021)
06/02/2021		TEXT ORDER granting 45 Motion to Seal Document Previously Filed With the Court - So Ordered by District Judge Mary S. McElroy on 6/2/2021. (Urizandi, Nisshy) (Entered: 06/02/2021)
06/02/2021	47	(Applicable Party) EXHIBIT IN SUPPORT by City of Providence, Sean Comella, James Cryan, Carla Cuellar, Day One, Brian Dyer, Dwight Eddy, Edmond Esten, Family Services Rhode Island, Inc., Philip Hartnett, Timothy McGann, Simone E Phoenix, Jeff Richards, The Providence Center, Inc., Deb Wingate-Silva in support of 44 MOTION for Summary Judgment <i>with Supporting Memorandum</i> . (Urizandi, Nisshy) This document has been filed under seal pursuant to LR Gen 102 and access is restricted. Please login to CM/ECF to view document(s). (Entered: 06/02/2021)
06/04/2021	48	STIPULATION <i>To Extend Time to Respond to Plaintiff's Discovery Requests</i> filed by Deb Wingate-Silva. (Suryanarayan, Rajaram) (Entered: 06/04/2021)
06/07/2021		TEXT ORDER entering 48 Stipulation filed by Deb Wingate-Silva - So Ordered by District Judge Mary S. McElroy on 6/7/2021. (Urizandi, Nisshy) (Entered: 06/07/2021)
06/07/2021	49	MOTION for an Extension of Time to File Response/Reply as to 44 MOTION for Summary Judgment <i>with Supporting Memorandum</i> filed by Simone E Phoenix. Responses due by 6/21/2021. (Kurland, Shannah) (Entered: 06/07/2021)
06/08/2021		TEXT ORDER granting 49 Motion for Extension of Time to File Response re 44 MOTION for Summary Judgment <i>with Supporting Memorandum</i> . Responses due by 7/1/2021. So Ordered by District Judge Mary S. McElroy on 6/8/2021. (Urizandi, Nisshy) (Entered: 06/08/2021)
07/01/2021	50	Motion to Deny (Attachments: # 1 Supporting Memorandum, # 2 Affidavit)(Kurland, Shannah) Modified on 7/9/2021 to correct event type (Potter, Carrie). (Entered: 07/01/2021)
07/02/2021	51	MOTION for Summary Judgment filed by Day One. Responses due by 7/16/2021. (Attachments: # 1 Supporting Memorandum MEMO, # 2 Exhibit EXHIBITS A-J) (Suryanarayan, Rajaram) (Entered: 07/02/2021)
07/02/2021	52	STATEMENT OF UNDISPUTED FACTS by Day One re 51 MOTION for Summary Judgment . (Suryanarayan, Rajaram) (Entered: 07/02/2021)
07/09/2021	53	RESPONSE In Opposition to 50 MOTION filed by City of Providence, Sean Comella, James Cryan, Brian Dyer, Dwight Eddy, Edmond Esten, Philip Hartnett, Timothy McGann, Jeff Richards. Replies due by 7/16/2021. (Colucci, Michael) (Entered: 07/09/2021)
07/16/2021	54	REPLY to Response re 53 Response to Motion, filed by Simone E Phoenix. (Kurland, Shannah) (Entered: 07/16/2021)
07/16/2021	55	MOTION <i>to Deny or Delay Ruling</i> re: 51 MOTION for Summary Judgment filed by Simone E Phoenix. Responses due by 7/30/2021. (Attachments: # 1 Supporting Memorandum, # 2 Exhibit A)(Kurland, Shannah) (Entered: 07/16/2021)

07/23/2021	56	RESPONSE In Opposition to 55 MOTION to Deny or Delay Ruling re: 51 MOTION for Summary Judgment filed by Day One, Deb Wingate-Silva. Replies due by 7/30/2021. (Suryanarayan, Rajaram) (Entered: 07/23/2021)
07/30/2021	57	REPLY to Response re 56 Response to Motion, filed by Simone E Phoenix. (Kurland, Shannah) (Entered: 07/30/2021)
09/15/2021	58 R	ORDER granting in part and denying in part 39 Motion to Dismiss. So Ordered by District Judge Mary S. McElroy on 9/15/2021. (Potter, Carrie) (Entered: 09/15/2021)
09/15/2021	59 R	MEMORANDUM AND ORDER Re: 44 Motion for Summary Judgment, 50 Motion to Deny/Defer, 55 Motion to Delay/Defer, 51 Motion for Summary Judgment. So Ordered by District Judge Mary S. McElroy on 9/15/2021. (Potter, Carrie) (Entered: 09/15/2021)
10/08/2021	60	<i>Defendant, Carla Cuellar</i> ANSWER to 30 Amended Complaint by Carla Cuellar. (Callaghan, Paul) (Entered: 10/08/2021)
10/21/2021		NOTICE of Hearing: Rule 16 Conference set for 11/1/2021 at 12:30 PM in Remote Hearing before District Judge Mary S. McElroy.(Zoom Meeting ID: 161 980 7710, Passcode: 818105) (Potter, Carrie) (Entered: 10/21/2021)
10/21/2021		HEARING CANCELLED : Rule 16 Conference set for 11/1/2021 at 12:30 PM in Remote Hearing before District Judge Mary S. McElroy is hereby cancelled. (Potter, Carrie) (Entered: 10/21/2021)
01/13/2022	61	MOTION for Summary Judgment filed by Carla Cuellar. Responses due by 1/27/2022. (Attachments: # 1 Supporting Memorandum)(Callaghan, Paul) (Entered: 01/13/2022)
01/13/2022	62	STATEMENT OF UNDISPUTED FACTS by Carla Cuellar re 61 MOTION for Summary Judgment . (Attachments: # 1 Exhibit)(Callaghan, Paul) (Entered: 01/13/2022)
01/14/2022	63	NOTICE of Appearance by Tyler J. Pare on behalf of Carla Cuellar, Family Services Rhode Island, Inc. (Pare, Tyler) (Entered: 01/14/2022)
01/17/2022	64	MOTION for an Extension of Time to File Response/Reply as to 61 MOTION for Summary Judgment filed by Simone E Phoenix. Responses due by 1/31/2022. (Kurland, Shannah) (Entered: 01/17/2022)
01/20/2022		TEXT ORDER granting 64 Motion for Extension of Time to File Response/Reply. 61 Motion for Summary Judgment Responses due by 2/17/2022.. So Ordered by District Judge Mary S. McElroy on 1/20/2022. (Potter, Carrie) (Entered: 01/20/2022)

PACER Service Center			
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02/17/2022 01:49:11			
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